

May 18, 1998

The Honorable John McCain, Chairman
The Honorable Ernest F. Hollings, Ranking Member
Committee on Commerce Science and Transportation
508 Dirksen Senate Office Building
Washington D.C. 20510

Dear Senators McCain and Hollings:

The National Association Of Convenience Stores (NACS) is writing to express our thanks and appreciation for addressing our primary concerns surrounding the "National Tobacco Policy Youth Smoking Reduction Act- (S. 1415) which is being considered this week.

AS you know, NACS first expressed opposition to S. 1415 because it would have given FDA expansive authority to prohibit tobacco sales by specific categories of stores. This authority was so broad, that many small businesses , who have themselves had no record or history of unlawful sales to minors, could lose the ability to sell a legal product. Our second concern was that the legislation would exempt certain tobacco retailers from all point-of-sale restrictions thereby placing traditional retailers, such as convenience stores, at a serious competitive disadvantage.

Over the last several weeks we have had an opportunity to meet with your respective staffs and discuss alternatives to these issues while also ensuring that we reach our common goal -- reducing underage consumption of tobacco by minors. NACS is very pleased that we have reached an agreement with your committee and others involved in the process and NACS will not object to the Senate's passage of S. 1415. NACS will also communicate this message to all our members as well as allied trade associations that have expressed similar concerns.

Thank you again for your willingness to work with our industry on these very critical issues.

Sincerely,

Marc Katz
Vice President, Government Relations

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Retailer-Related Message Points

- The McCain bill is unreasonable and excessive. It is a Washington power-grab that would have far reaching and devastating consequences for the retail industry.
- In the real world, a \$ 1. 10 per pack tax increase translates into a retail price increase of \$2.50 cents per pack. Today, this would bring the price of a pack of cigarettes to near \$5.00 per pack. David Adelman of Morgan Stanley Dean Witter estimates volume will decline by 46% within five years. Many convenience store rely on tobacco for up to 30% of their yearly profits. A 46% decline in volume will cost jobs and destroy businesses.
- The McCain bill bans self-service displays. Retailers will have to retrofit stores, at significant cost, to move product behind the counter.
- The McCain bill guarantees the creation of an ever-larger black market for cigarettes. The problem is already acute in states like California, Michigan and New Jersey. Convenience stores cannot compete with tax-free black market cigarettes.
- The McCain bill would give almost unlimited power to regulate the sale of cigarettes to the Food and Drug Administration (FDA) and HHS. It would create no fewer than 17 new federal agencies. The FDA would be allowed to create a patchwork of inconsistent state laws regulating the sale of tobacco products. In addition, it would allow each state to enact its own rules. Retailers with stores in more than one state will have to hire more people just to work through the bureaucratic red tape.
- The FDA could ban cigarettes outright without consultation with or the advisement of anyone other than their own bureaucracy

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